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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re

ENDO INTERNATIONAL plc, et al.,

Debtors.¹

Chapter 11

Case No. 22-22549 (JLG)

(Jointly Administered)

Related Docket No. 1257

NOTICE OF FILING OF TERM SHEET

PLEASE TAKE NOTICE that, on November 23, 2022, the Debtors filed the *Debtors' Motion for an Order (I) Establishing Bidding, Noticing, and Assumption and Assignment Procedures, (II) Approving Certain Transaction Steps, (III) Approving the Sale of Substantially All of the Debtors' Assets and (IV) Granting Related Relief* [Docket No. 728] (the "**Sale Motion**").

PLEASE TAKE FURTHER NOTICE that, on January 27, 2023, the Court entered an order [Docket No. 1257] (the "**Mediation Order**")² referring certain matters to mediation ("**Mediation**").

PLEASE TAKE FURTHER NOTICE that, prior to Sale Objection Deadline (as defined in the Bidding Procedures Order), the Ad Hoc First Lien Group and the United States of America

¹ The last four digits of Debtor Endo International plc's tax identification number are 3755. Due to the large number of debtors in these chapter 11 cases, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at <https://restructuring.ra.kroll.com/Endo>. The location of the Debtors' service address for purposes of these chapter 11 cases is: 1400 Atwater Dr., Malvern, PA 19355.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Mediation Order or the proposed order attached as Exhibit A to the *Notice of Filing of Revised Proposed Order (A) Approving the Purchase and Sale Agreement, (B) Authorizing the Sale of Assets, (C) Authorizing the Assumption and Assignment of Contracts and Leases, and (D) Granting Related Relief; and Revised Stalking Horse Agreement* [Docket No. 2577], as applicable.

(the “*United States*”) engaged in Mediation with respect to certain disputes related to the Sale Motion.

PLEASE TAKE FURTHER NOTICE that, on July 18, 2023, prior to the Sale Objection Deadline, the United States, on behalf of the Internal Revenue Service, the U.S. Department of Justice, the U.S. Department of Health and Human Services, and the U.S. Department of Veterans Affairs, by its attorney, Damian Williams, United States Attorney for the Southern District of New York, filed the *Objection of the United States of America to the Debtors’ Motion for an Order (I) Establishing Bidding, Noticing, and Assumption and Assignment Procedures, (II) Approving Certain Transaction Steps, (III) Approving the Sale of Substantially All of the Debtors’ Assets and (IV) Granting Related Relief – and – Memorandum of Law in Support of Motion to Appoint Chapter 11 Trustee* [Docket No. 2460] (the “**USG Objection**”).

PLEASE TAKE FURTHER NOTICE that, following the filing of the USG Objection, the United States and the Ad Hoc First Lien Group voluntarily resumed Mediation.

PLEASE TAKE FURTHER NOTICE that the Mediation Order authorizes the disclosure of Proposal Information.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Mediation, the Proposal Information attached hereto as **Exhibit A** (the “*Term Sheet*”) is a summary of key terms under discussion in the interest of reaching a potential resolution of the USG Objection and certain related claims and disputes and is the product of Mediation discussions among certain representatives of the United States and certain representatives of the Ad Hoc First Lien Group. Specifically, with respect to the United States, once an acceptable resolution of the civil fraud and criminal investigations is reached (as noted in paragraph 5 of the Term Sheet), and further once appropriate documents are negotiated to implement the terms embodied in the Term Sheet, then trial counsel at the United States Attorney’s Office for the Southern District of New York have agreed to recommend the terms of the Term Sheet for approval to the appropriate officials within the U.S. Department of Justice who are empowered to authorize settlements of the government claims at issue.

PLEASE TAKE FURTHER NOTICE that the Term Sheet has not yet been approved by either the United States or the Required Consenting Global First Lien Creditors, and remains subject to and conditioned upon (i) each such party obtaining any necessary approvals of the terms embodied in the Term Sheet, (ii) agreement on definitive documentation implementing the Term Sheet (including a potential chapter 11 plan that may be proposed prospectively by the Debtors), and (iii) agreement by and among the Debtors, the United States, and the Required Consenting Global First Lien Creditors on the resolution of all civil fraud and criminal investigations of the Debtors by the U.S. Department of Justice (which resolution discussions, for the avoidance of doubt, remain ongoing), as noted in paragraph 5 of the Term Sheet.

PLEASE TAKE FURTHER NOTICE that none of the Debtors, their applicable boards of directors, or any other case constituencies (to the extent applicable) have approved or agreed to support the terms set forth in the Term Sheet. In the event any such approval or support is necessary, it will be sought at the appropriate time.

PLEASE TAKE FURTHER NOTICE that (i) the Term Sheet and the negotiations related thereto are subject to Rule 408 of the Federal Rule of Evidence, all other applicable rules of evidence, and the Mediation Order, (ii) all negotiations relating to the Term Sheet shall not be admissible into evidence in any proceeding, and (iii) the rights of the United States, the Ad Hoc First Lien Group, the Debtors, the official committees, and other case constituencies with respect to all issues in the above-captioned chapter 11 cases (the “*Chapter 11 Cases*”) are fully reserved.

Dated: November 20, 2023
New York, New York

Respectfully submitted,

/s/ Michael J. Cohen

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Exhibit A

Term Sheet

PLEASE TAKE NOTICE that the Term Sheet remains (i) subject to separate and ongoing approval processes to be undertaken by the United States and the Required Consenting Global First Lien Creditors and (ii) contingent on certain to be agreed contributions of other constituencies in the Chapter 11 Cases as outlined in the Term Sheet. The Debtors and applicable interested parties reserve all of their respective rights, subject to the terms and conditions set forth in the Restructuring Support Agreement, with respect to the resolution of the criminal matters raised by the United States and the definitive documents related to the Term Sheet (including a chapter 11 plan) and to any amendment, revision, modification, or supplement to any such documents at any time before the effective date of a chapter 11 plan, or any such other date as may be provided for by such plan or by order of the Bankruptcy Court.

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Key Terms of DOJ-Ad Hoc First Lien Resolution

1. \$364.9 million nominal, payable over 10 years in equal installments with the first payment payable 12 months after the closing of the sale or the effective date of a chapter 11 plan for the Debtors (the “Plan”) (such date, the “Resolution Effective Date”). The parties agree that in any sale or plan scenario, the transaction will be treated as a taxable sale of assets for federal income tax purposes. The Ad Hoc First Lien Group is not prepared to have the Resolution Obligor (defined as Newco, in the event of a sale, or the ultimate parent of the reorganized business in the event of a Plan) fund the full \$364.9 million payment (\$200 million on a net present value basis based on the discounting factors in 1a below), and is in the process of mediating with other constituencies the extent to which any constituencies will provide contributions to such payment.
 - a. The Resolution Obligor¹ can elect to pre-pay the balance in whole or in part at any time using the following discounting factors: (i) 10 year, equal installment payment stream (or such amounts remaining to be paid under the original 10-year schedule) and (ii): 12.75% annual discount rate. For the avoidance of doubt, if the Resolution Obligor elects to prepay the entire amount on the Resolution Effective Date, the payment would be \$200 million.
 - b. DOJ will have a one-time election to demand the \$200 million payment on the Resolution Effective Date.
2. \$100 million contingent note payable annually based on EBITDA outperformance during the calendar years 2024-2028, the material terms of which note are set forth on Exhibit 1 hereto.
3. If DOJ doesn’t elect to receive the upfront payment detailed in 1b above, should the Resolution Obligor file for bankruptcy prior to full satisfaction of the cash payment obligations herein, the unpaid balance would receive priority status in a subsequent bankruptcy case of the Resolution Obligor.
4. Parties agree that (a) no tax credits or other potentially beneficial tax attributes (such as net operating losses) are acquired by the Newco from the Debtors in the event of a sale or by any party (including the Reorganized Debtor) in the event of a reorganization, and (b) the Resolution Obligor’s tax basis in the acquired or post-emergence assets (as applicable) will be stipulated to be in the range of \$3.5 billion to \$4.65 billion, with such tax basis to be established by the Resolution Obligor following the Resolution Effective Date pursuant to a fair market valuation of such assets by a nationally recognized accounting firm retained by the Resolution Obligor.
5. This deal is subject to satisfactory resolution of the criminal and civil fraud claims against the Debtors related to the sale and marketing of opioid products, the financial component of which will be included within the payments described in paragraphs 1-2, and shall be acceptable to the DOJ, Debtors and the Ad Hoc First Lien Group.

¹ The obligations hereunder of the Resolution Obligor shall not be structurally junior to any of obligations outstanding under any other resolution reached with any other case constituency.

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6. These considerations would satisfy all pre-petition and administrative claims of the government against the Debtors.
7. The Debtors and Ad Hoc First Lien Group will resolve any outstanding objections from the US Trustee to the proposed transaction.

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Exhibit 1

Material Terms of Contingent Note

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- **Instrument:** a promissory note issued at Resolution Effective Date with a face amount of \$100 million that shall rank as a senior unsecured obligation of the Resolution Obligor (the “**Contingent Note**”), which the Parties agree is among the consideration given in respect of the resolution of the IRS’s tax claims.

- **Contingent payment amount:** Periodic payment amount determined by EBITDA outperformance relative to benchmark projections. For each year from 2024 through 2027, payment on the Contingent Note is triggered by the Resolution Obligor’s outperformance over the February 2023 LTP. For the year 2028 (which is not included in the February 2023 LTP), the target EBITDA (defined below) shall be \$949 million².
 - Use Earnings Before Interest, Taxes, Depreciation and Amortization (“**EBITDA**”) as a metric to measure outperformance on an annual basis. EBITDA will be calculated as disclosed in Item 2.02 of Endo’s Current Report on Form 8-K dated August 8, 2023 (“EBITDA represents Net income (loss) before Interest expense, net; Income tax expense; Depreciation; and Amortization, each prepared in accordance with GAAP.”).
 - EBITDA threshold will be adjusted upward/downward dollar for dollar based upon the EBITDA contribution of acquired/sold assets upon the closing of such acquisitions/sales; provided, that any single or series of sale transactions within a twelve-month period that represent more than 66.7% of the EBITDA of the preceding measurement period shall constitute a Liquidity Event (defined below) (such a series of sales within such a twelve-month period, a “**Qualifying Series Liquidity Event**”). Any EBITDA threshold adjustment should account for the timing of the acquisition/sale.
 - Outperformance as measured by actual annual EBITDA reported in any single year during 2024 – 2028 (the “**Contingent Note Period**”) exceeding projected EBITDA by a percentage equal or greater than the applicable incremental percentage set forth below would trigger a payment:

Year	Outperformance Percentage
2024	35%
2025	20%
2026	20%
2027	20%
2028	20%

- Outperformance in any single year would trigger a payment of \$25 million (the “**Contingent Note Payment Amount**”), subject to adjustment as set forth below. Each year’s outperformance is evaluated on a standalone basis (*i.e.*, irrespective of performance in any prior year). For the avoidance of doubt, the sum of payments shall never exceed \$100 million in the aggregate.

² Based on EBITDA growth rate equal to 2027 EBITDA growth rate in February 2023 LTP

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- No clawback is permitted if the Resolution Obligor’s audited financial statements are subsequently restated.
- **Liquidity Event Accelerator:**
 - (A) Upon the occurrence of (i) a single transaction that, in form or substance, effects a sale of the Resolution Obligor that closes during the Contingent Note Period at an implied Total Enterprise Value (defined below) that exceeds the applicable Threshold Enterprise Value (defined below), then the Contingent Note will become fully due and payable upon the applicable Liquidity Event Trigger Date, or (ii) a Qualifying Series Liquidity Event, the final sale of which closes during the Contingent Note Period, whereby (1) the sum of (w) the total purchase price paid or payable for each such sale on the Liquidity Event Trigger Date, (x) the book value of the outstanding interest-bearing indebtedness of the Resolution Obligor on the Liquidity Event Trigger Date, and (y) the average daily closing market capitalization of the Resolution Obligor’s publicly traded equity for the 30 consecutive trading days following the applicable Liquidity Event Trigger Date,³ minus (z) the consolidated cash of the Resolution Obligor as of the most recent calendar month-end before the Liquidity Event Trigger Date, exceeds (2) the applicable Threshold Enterprise Value, then the Contingent Note will become fully due and payable upon the applicable Liquidity Event Trigger Date.
 - (B) Upon the occurrence of (i) any single sale of, or (ii) multiple sales aggregating \$500 million or more in value of shares by two or more unaffiliated shareholders acting in concert (not the Resolution Obligor or the Voluntary GUC Trust) that (1) is organized and managed by an investment bank or broker-dealer engaged by the selling shareholders and is not an open market sale, or (2) is a secondary registered offering of such shares that is underwritten by an underwriter, which, in each case, closes during the Contingent Note Period at an implied Total Enterprise Value exceeding the Threshold Enterprise Value on the applicable Liquidity Event Trigger Date (each of the transactions described in this clause (B), a “**Stock Sale Liquidity Event**”), then the Resolution Obligor shall pay the Applicable Amount upon such Liquidity Event Trigger Date, which payment shall reduce the balance of the Contingent Note. Following the payment of any Applicable Amount, the Contingent Note Payment Amount payable in any subsequent calendar year shall be equal to the product of (i) the Contingent Note Payment Amount prior to the payment of such Applicable Amount and (ii) 1 minus the result of (a) the amount raised in the applicable Stock Sale Liquidity Event divided by (b)(x) in the case of a Stock Sale Liquidity Event described in clause (B)(i) above, the total equity value implied by the price per each share sold in such Stock Sale Liquidity Event or (y) in the case of a Stock Sale Liquidity Event described in clause (B)(ii) above, the average equity value implied by the price per each share sold in the sales comprising such Stock Sale Liquidity Event.
 - “**Liquidity Event**” means any of the transactions described in clauses (A)(i) and (ii) above and any Stock Sale Liquidity Event. For the avoidance of doubt, the listing by the Resolution Obligor of its shares on a stock exchange after the

³ In the event the equity of the Resolution Obligor is not publicly listed on such date, such equity value shall be determined by a nationally recognized investment banking or valuation firm selected by the Resolution Obligor with DOJ’s approval, and retained by the Resolution Obligor.

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Resolution Effective Date or an individual shareholder’s sale of its shares (whether in a block trade or multiple trades), in each case, is not a Liquidity Event.

- **“Liquidity Event Trigger Date”** means, as applicable, (1) the closing date in the case of a Liquidity Event described in clause (A)(i) above, (2) the final closing date in the series of sales that are the subject of a Qualifying Series Liquidity Event described in clause (A)(ii) above, (3) the closing date of a sale of shares comprising a Stock Sale Liquidity Event under clause (B)(i), or (4) the final closing date in the series of sales comprising a Stock Sale Liquidity Event under clause (B)(ii).
- **“Applicable Amount”** means the amount equal to the product of (1) (A) in the case of a sale under clause (B)(i), the amount raised in the applicable Stock Sale Liquidity Event divided by the total equity value implied by the price per each share sold in such Stock Sale Liquidity Event or (B) in the case of a series of sales under clause (B)(ii), the aggregate amount raised in the applicable sales comprising such Stock Sale Liquidity Event divided by the average equity value implied by the price per each share sold in the sales comprising such Stock Sale Liquidity Event and (2) the face amount of the Contingent Note outstanding immediately before the Liquidity Event Trigger Date in respect of such Stock Sale Liquidity Event.
- **“Total Enterprise Value”** means (i) the market capitalization of the Resolution Obligor *plus* the book value of the outstanding interest-bearing indebtedness of the Resolution Obligor, in each case, on the Liquidity Event Trigger Date *minus* (ii) consolidated cash of the Resolution Obligor as of the most recent calendar month-end before the Liquidity Event Trigger Date.
- **“Threshold Enterprise Value”** means the amount set forth below with respect to the applicable calendar year in which a Liquidity Event Trigger Date occurs; *provided* that the Threshold Enterprise Value for each calendar year shall be subject to a dollar-for-dollar adjustment upward or downward equal to the purchase price of assets purchased or sold during the Contingent Note Period, as applicable:

(\$ in millions)	2024	2025	2026	2027	2028
Threshold Enterprise Value	\$6,772	\$7,085	\$7,997	\$8,534	\$9,110